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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

13 **ANNAMARIE MARIETTA MARKATOS**
101 Mc Lellan Drive, Apt. 2024
14 **South San Francisco, CA 94080**

A C C U S A T I O N

15 **Registered Nurse License No. 739744**

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about November 12, 2008, the Board of Registered Nursing issued Registered
23 Nurse License Number 739744 to Annamarie Marietta Markatos (Respondent). The Registered
24 Nurse License expired on May 31, 2012, and has not been renewed.

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code (Code) unless otherwise indicated.
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10. Code section 2762 states, in part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following: . . .

(b) Use any . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

11. Code section 2765 provides:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states, in part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . .

COST RECOVERY

13. Code section 125.3 provides, in part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Convictions of Substantially Related Crime)

14. Respondent has subjected her registered nursing license to discipline under Code sections 490 and 2761, subdivision (f), in that she was convicted of two crimes that are substantially related to the qualifications, functions, and duties of a Registered Nurse, within the meaning of California Code of Regulations, title 16, section 1444. The circumstances are as follows:

15. On or about February 22, 2012, in a prior criminal proceeding entitled *People v. Annamarie Marietta Markatos*, Marin County Superior Court Case Number CR177724A, Respondent was convicted by a guilty plea for violating Vehicle Code section 23152, subdivision (b), (Driving under the Influence of Alcohol), a misdemeanor. Respondent accepted the terms of Vehicle Code section 23538, requiring a first offender with a blood alcohol level of 0.20% or more to participate in drinking driver program for at least 9 months. The court ordered her to serve 3 years of informal probation and 2 days in county jail, to pay fines, and to comply with other terms and conditions.

16. The factual circumstances underlying the conviction are that on or about September 24, 2011, the California Highway Patrol arrested Respondent for violating Vehicle Code section 23152, subdivisions (a) and (b). The arresting officer observed respondent driving erratically and swerving in three lanes on the highway. The arresting officer observed that Respondent's eyes were bloodshot and watery, her breath smelled of alcohol, and she was unsteady on her feet. Respondent's blood alcohol level was .26%.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Use of Alcohol in a Dangerous Manner)

17. Respondent has subjected her registered nursing license to discipline under Code sections 2761, subdivision (a), as defined by 2762, subdivision (b), in that she used alcoholic beverages in a manner dangerous or injurious to herself, any other person, or the public. The circumstances are more particularly set forth in paragraphs 15-16, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Drug and Alcohol-Related Conviction)

18. Respondent has subjected her registered nursing license to discipline under Code sections 2761, subdivision (a), as defined by 2762, subdivision (c), in that she was convicted a crime involving the consumption of alcoholic beverages. The circumstances are more particularly set forth in paragraphs 15-16, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 739744, issued to Annamarie Marietta Markatos;

2. Ordering Annamarie Marietta Markatos to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 5, 2013

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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